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9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 MICHAEL GRECCO PRODUCTIONS,
13 INC., d/b/a “Michael Grecco
14 Photography”, a California corporation;
15 HOWARD SCHATZ, an individual; and,
WILLIAM COUPON, an individual,

16 Plaintiffs,

17
18 v.

19 REDBUBBLE, INC., a Delaware
20 Corporation; and DOES 1-10,

21 Defendants.
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Case No.:

**PLAINTIFF’S COMPLAINT FOR
COPYRIGHT INFRINGEMENT**

1. Copyright Infringement (17 U.S.C. § 106)
2. Vicarious Copyright Infringement
3. Contributory Copyright Infringement

JURY TRIAL DEMANDED

1 Plaintiffs, Michael Grecco Productions, Inc., Howard Schatz, and William
2 Coupon (collectively, “Plaintiffs”), by and through their undersigned attorneys,
3 hereby pray to this honorable Court for relief based on the following:

4 **JURISDICTION AND VENUE**

5 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §
6 101 *et seq.*

7 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
8 1338 (a) and (b).

9 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
10 1400(a) in that this is the judicial district in which a substantial part of the acts and
11 omissions giving rise to the claims occurred.

12 **PARTIES**

13 4. Plaintiff MICHAEL GRECCO PRODUCTIONS, INC., d/b/a “Michael
14 Grecco Photography” (“Grecco”), is a California corporation organized and existing
15 under the laws of the state of California with its principal place of business at 3103
16 17th Street, Santa Monica, California 90405. Plaintiff’s principal, Michael Grecco, is
17 an award-winning commercial photographer noted for his iconic celebrity portraits,
18 magazine covers, editorial images, and advertising spreads.

19 5. Plaintiff HOWARD SCHATZ (“Schatz”) is an individual currently
20 residing in New York, New York. Schatz is a renowned professional photographer
21 whose work has been exhibited in museums and galleries around the world and has
22 received numerous awards and accolades for his photography.

23 6. Plaintiff WILLIAM COUPON (“Coupon”) is an individual currently
24 residing in Santa Fe, New Mexico. Coupon is an internationally acclaimed
25 professional photographer whose work has been featured in renowned publications
26 such as Time Magazine, The New York Times, The Los Angeles Times, People
27 Magazine, the Economist, and many more.

1 7. Plaintiffs are informed and believe and thereon allege that Defendant
2 REDBUBBLE, INC., (“Redbubble”), is a Delaware corporation with its principal
3 place of business located at 111 Sutter St, 17th Floor, San Francisco, CA 94104.

4 8. Defendants Does 1 through 10, inclusive, are other parties who have
5 infringed Plaintiffs’ copyright, have contributed to the infringement of Plaintiffs’
6 copyright, or have engaged in one or more of the wrongful practices alleged herein.
7 The true names, whether corporate, individual or otherwise, of Defendants 1 through
8 10, inclusive, are presently unknown to Plaintiffs, who therefore sue said Defendants
9 by such fictitious names, and will seek leave to amend this Complaint to show their
10 true names and capacities when same have been ascertained.

11 9. Plaintiffs are informed and believe and thereon allege that at all times
12 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
13 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
14 at all times acting within the scope of such agency, affiliation, alter-ego relationship
15 and/or employment; and actively participated in or subsequently ratified and adopted,
16 or both, each and all of the acts or conduct alleged, with full knowledge of all the
17 facts and circumstances, including, but not limited to, full knowledge of each and
18 every violation of Plaintiffs’ rights and the damages proximately caused thereby.

19 **CLAIMS RELATED TO THE GRECCO PHOTOGRAPHS**

20 10. Grecco owns the original photographs depicted in **Exhibit A** attached
21 hereto (the “Grecco Photographs”) that were registered with the United States
22 Copyright Office at the Registration Numbers listed in **Exhibit A**. Grecco is the sole
23 owner of the exclusive rights to the Grecco Photographs.

24 11. Grecco is informed and believes and thereon alleges that following its
25 publication and display of the Grecco Photographs, Redbubble, Doe Defendants, and
26 each them, reproduced and otherwise exploited the Grecco Photographs without
27 Plaintiff’s authorization for commercial purposes in various ways, including, but not
28 limited to, offering for sale numerous commercial products bearing, in whole or in

1 part, the Grecco Photographs at websites such as www.redbubble.com.

2 12. Images of the Grecco Photographs and screen captures depicting non-
3 inclusive exemplars of Defendants' infringing uses are set forth in **Exhibit A**
4 attached hereto.

5 **CLAIMS RELATED TO THE COUPON PHOTOGRAPHS**

6 13. Coupon owns the original photographs depicted in **Exhibit B** attached
7 hereto (the "Coupon Photographs") that were registered with the United States
8 Copyright Office at Registration Number VAu001187793, effective as of October 10,
9 2014. Coupon is the sole owner of the exclusive rights to the Coupon Photographs.

10 14. Coupon is informed and believes and thereon alleges that following his
11 publication and display of the Coupon Photographs, Redbubble, Doe Defendants, and
12 each them, reproduced and otherwise exploited the Coupon Photographs without
13 Plaintiff's authorization or consent for commercial purposes in various ways,
14 including, but not limited to, offering for sale numerous commercial products
15 bearing, in whole or in part, the Coupon Photographs at websites such as
16 www.redbubble.com.

17 15. Images of the Coupon Photographs and screen captures depicting non-
18 inclusive exemplars of Defendants' infringing uses are set forth in **Exhibit B** attached
19 hereto.

20 **CLAIMS RELATED TO THE SCHATZ PHOTOGRAPHS**

21 16. Schatz owns the original photographs depicted in **Exhibit C** attached
22 hereto (the "Schatz Photographs") that were registered with the United States
23 Copyright Office at Registration Numbers VA0002151639, effective as of September
24 18, 2018, and VAu001093993, effective as of December 20, 2011. Schatz is the
25 owner of the exclusive rights to the Schatz Photographs.

26 17. Schatz is informed and believes and thereon alleges that following his
27 publication and display of the Schatz Photographs, Redbubble, Doe Defendants, and
28 each of them, reproduced and otherwise exploited the Schatz Photographs without

1 Schatz's authorization or consent for commercial purposes in various ways, including
2 but not limited to, offering for sale numerous commercial products bearing, in whole
3 or in part, the Schatz Photographs at websites such as www.redbubble.com.

4 18. Images of the Schatz Photographs and screen captures depicting non-
5 inclusive exemplars of Defendants' infringing uses are set forth in **Exhibit C**
6 attached hereto.

7 **FIRST CLAIM FOR RELIEF**

8 (For Copyright Infringement – Against all Defendants, and Each)

9 19. Plaintiffs repeat, re-allege, and incorporate herein by reference as though
10 fully set forth, the allegations contained in the preceding paragraphs of this
11 Complaint.

12 20. Plaintiffs are informed and believes and thereon alleges that Defendants,
13 and each of them, had access to the Grecco Photographs, Coupon Photographs, and
14 Schatz Photographs (collectively, the "Subject Photographs"), including, without
15 limitation, through their publication by Plaintiffs' clients, including numerous
16 physical and digital publications, and through the unauthorized reproductions of the
17 Subject Photographs by other third parties online. Access is further evidenced by
18 Subject Photograph's identical or near identical reproduction in Defendants'
19 infringing uses.

20 21. Plaintiffs are informed and believe and thereon alleges that Defendants,
21 and each of them, used and displayed the Subject Photographs on websites
22 including, but not limited to, *www.redbubble.com*.

23 22. Plaintiffs are informed and believe and thereon allege that the
24 photographs used by Defendants, shown above, used the same elements,
25 composition, colors, arrangement, subject, lighting, angle, and overall appearance of
26 the Subject Photographs and are identical or at least substantially similar to the
27 Subject Photographs.
28

1 23. Plaintiffs are informed and believe and thereon allege that Defendants,
2 and each of them, infringed Plaintiffs' copyrights by copying the Subject
3 Photographs and publishing and displaying the Subject Photographs to the public,
4 including without limitation, on www.redbubble.com, without Plaintiffs'
5 authorization or consent.

6 24. Due to Defendants', and each of their, acts of infringement, Plaintiffs
7 have suffered general and special damages in an amount to be established at trial.

8 25. Due to Defendants' acts of copyright infringement as alleged herein,
9 Defendants, and each of them, have obtained direct and indirect profits they would
10 not otherwise have realized but for their infringement of Plaintiffs' rights in the
11 Subject Photographs. As such, Plaintiffs are entitled to disgorgement of Defendants'
12 profits directly and indirectly attributable to Defendants' infringement of its rights in
13 the Subject Photographs in an amount to be established at trial.

14 26. Plaintiffs are informed and believe and thereon allege that Defendants,
15 and each of them, have committed acts of copyright infringement, as alleged above,
16 which were willful, intentional and malicious, which further subjects Defendants,
17 and each of them, to liability for statutory damages under Section 504(c)(2) of the
18 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00)
19 per infringement. Within the time permitted by law, Plaintiffs will make their
20 election between actual damages and statutory damages.

21 **SECOND CLAIM FOR RELIEF**

22 (For Contributory Copyright Infringement – Against All Defendants, and Each)

23 27. Plaintiffs repeat, re-allege, and incorporate herein by reference as though
24 fully set forth, the allegations contained in the preceding paragraphs.

25 28. Plaintiffs allege on information and belief that Defendants knowingly
26 induced, participated in, aided and abetted in, and profited from the illegal
27 reproduction and distribution of the Subject Photographs as alleged hereinabove.
28

1 29. Defendants knew or should have known that the sale of unauthorized
2 reproductions of the Subject Photographs by affiliated and third-party distributors,
3 including, but not limited to those operating on www.redbubble.com, directly
4 infringed the copyrights in and to the Subject Photographs.

5 30. Defendants induced, caused, and materially contributed to the third-
6 party distributors' direct infringement by, at a minimum, selling and distributing
7 products bearing unauthorized reproductions of the Subject Photographs to their
8 third-party distributors for further sale and distribution.

9 31. Defendants received substantial benefits in connection with their
10 unauthorized reproduction and distribution of the Subject Photographs, including,
11 but not limited to revenue received from the sale of products bearing unauthorized
12 reproductions and derivatives of the Subject Photographs.

13 32. Plaintiff alleges that Defendants committed contributory copyright
14 infringement with actual knowledge or reckless disregard of its rights such that said
15 acts of copyright infringement were, and continue to be, willful, intentional and
16 malicious.

17 33. By reason of Defendants' acts of contributory infringement as alleged
18 above, Plaintiffs have been damaged and have suffered damages in an amount to be
19 established at trial.

20 34. Due to Defendants' acts of contributory copyright infringement as
21 alleged herein, they have obtained direct and indirect profits they would not
22 otherwise have realized but for their infringement of Plaintiffs' rights in the Subject
23 Photographs. As such, Plaintiffs are entitled to disgorgement of Defendants' profits
24 directly and indirectly attributable to their infringement of the Subject Photographs,
25 in an amount to be established at trial.

26 35. Plaintiffs are informed and believes and thereon alleges that Defendants,
27 and each of them, have committed acts of copyright infringement, as alleged above,
28 which were willful, intentional and malicious, which further subjects Defendants,

1 and each of them, to liability for statutory damages under Section 504(c)(2) of the
 2 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00)
 3 per infringement. Within the time permitted by law, Plaintiffs will make its election
 4 between actual damages and statutory damages.

5 **THIRD CLAIM FOR RELIEF**

6 (For Vicarious Copyright Infringement – Against All Defendants, and Each)

7 36. Plaintiffs repeat, re-allege, and incorporate herein by reference as though
 8 fully set forth, the allegations contained in the preceding paragraphs.

9 37. Plaintiffs allege on information and belief that Defendants had the right
 10 and ability to supervise the infringing conduct of its affiliated and third-party
 11 distributors, by virtue of *inter alia* its contractual agreements with those distributors
 12 and had the right and ability to prevent the further distribution and sale of
 13 unauthorized reproductions of the Subject Photographs.

14 38. Defendants had a direct financial interest in the infringing activity
 15 because it received substantial benefits in connection with the unauthorized
 16 reproduction and distribution of the Subject Photographs for purposes of
 17 trade. Specifically, Defendants received revenue in connection with the sale of
 18 products bearing unauthorized reproductions and derivatives of the Subject
 19 Photographs, and was able to supervise the distribution, sale, and creation of said
 20 products.

21 39. Plaintiffs allege that Defendants committed vicarious copyright
 22 infringement with actual knowledge or reckless disregard of its rights such that said
 23 acts of copyright infringement were, and continue to be, willful, intentional and
 24 malicious.

25 40. By reason of Defendants' acts of vicarious infringement as alleged above,
 26 Plaintiffs have been damaged and have suffered damages in an amount to be
 27 established at trial.
 28

41. Due to Defendants' acts of vicarious copyright infringement as alleged herein, it has obtained direct and indirect profits it would not otherwise have realized but for its infringement of Plaintiffs' rights in the Subject Photographs. As such, Plaintiffs are entitled to disgorgement of Defendants' profits directly and indirectly attributable to its infringement of the Subject Photographs, in an amount to be established at trial.

42. Plaintiffs are informed and believe and thereon allege that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00) per infringement. Within the time permitted by law, Plaintiffs will make their elections between actual damages and statutory damages.

PRAYER FOR RELIEF

Wherefore, Plaintiffs pray for judgment as follows:

Against all Defendants, and Each:

With Respect to Each Claim for Relief:

- a. That Defendants, and each of them, as well as their employees, agents, or anyone acting in concert with them, be enjoined from infringing Plaintiffs' copyright in the Subject Photographs, including, without limitation, an order requiring Defendants, and each of them, to remove the Subject Photographs from their respective websites, catalogs, marketing and advertisement materials.
- b. That Plaintiffs be awarded all profits of Defendants, and each of them, plus all losses of Plaintiffs, plus any other monetary advantage gained by the Defendants, and each of them, through their infringement, the exact sum to be proven at the time of trial, and, to the extent available,

1 statutory damages as available under the 17 U.S.C. § 504, 17 U.S.C.
2 §1203, and other applicable law.

- 3 c. That a constructive trust be entered over any revenues or other proceeds
4 realized by Defendants, and each of them, through their infringement of
5 Plaintiffs' intellectual property rights;
- 6 d. That Plaintiffs be awarded its attorneys' fees as available under the
7 Copyright Act U.S.C. § 101 et seq.;
- 8 e. That Plaintiffs be awarded its costs and fees under the statutes set forth
9 above;
- 10 f. That Plaintiffs be awarded statutory damages and/or penalties under the
11 statutes set forth above;
- 12 g. That Plaintiffs be awarded pre-judgment interest as allowed by law;
- 13 h. That Plaintiffs be awarded the costs of this action; and
- 14 i. That Plaintiffs be awarded such further legal and equitable relief as the
15 Court deems proper.

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17 Plaintiffs demand a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
18 38 and the 7th Amendment to the United States Constitution.

19
20 Respectfully submitted,

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22 Dated: March 31, 2022

23 By: /s/ Stephen M. Doniger
24 Stephen M. Doniger, Esq.
25 Kelsey M. Schultz, Esq.
26 DONIGER / BURROUGHS
27 Attorneys for Plaintiffs
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